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Hon. Valerie E. Caproni
 United States District Court
 Southern District of New York
 500 Pearl Street
 New York, New York 10007

June 9, 2021

VIA ECF

Re: LG Capital Funding, LLC v. Nyxio Technologies, Corp. (21-cv-2044(VEC))

Dear Judge Caproni:

This firm represents LG Capital Funding, LLC (“LG” or “Plaintiff”) in the above-referenced matter. I write to update the Court on service and to request an adjournment of the Order to Show Cause Hearing presently scheduled for June 18, 2021.

On May 17, 2021, the Court signed Plaintiff’s Order to Show Cause for Default Judgment, ordering Plaintiff to serve the Order and Supporting Documents on Defendant by Certified United States Mail, Return Receipt Requested. On May 20, 2021, the undersigned did so, and on May 28, 2021 filed a Declaration of Service, Dkt. 21. The Order also required Defendant to file and serve its Opposition to the Motion by June 7, 2021, but Defendant failed to do so.

Upon reviewing the tracking of the parcel (Tracking Number: 70151520000223998075), it appears that the parcel was returned because of “an incomplete address,” but (like in the matter of *LG Capital Funding, LLC v. Microelectronics Technology Co.*, 21-cv-1624, also before Your Honor) the address of the mailing matched the address listed on Defendant’s Securities and Exchange Commission Registration.

While it is Plaintiff’s position that such a mailing was sufficient service and Defendant’s failure to maintain a valid address with the SEC would not excuse a default, should the Court deem it necessary, Plaintiff can make further attempts to serve the documents on Defendant’s registered agent, attempt to find other addresses for Defendant, or effectuate service in another manner as directed by the Court. Should the Court order service to be made in another way, Plaintiff would respectfully request that the hearing on the Order to Show Cause currently scheduled for June 16, 2021, as well as the associated deadlines, be adjourned accordingly.

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Continuation Page

In addition, the undersigned is unavailable on the scheduled date for the Order to Show Cause Hearing if it were to proceed despite the aforementioned address issues due to family commitments. Although a covering attorney could be available for the conference, the undersigned is most familiar with this matter and would better serve to discuss all matters relating to the case pursuant to Your Honor's Individual Rule 3.D.i.

For these reasons, it is respectfully requested that the Court direct Plaintiff if additional service should be made, and that the Court adjourn the June 16, 2021 conference to a later date to accommodate any additional service and the undersigned's unavailability on that date.

Respectfully Submitted,

/s/
Kevin Kehrli, Esq.

Plaintiff must serve Defendant with a copy of the Court's Order to Show Cause, accompanying papers, and a copy of this Order by service on Defendant's registered agent not later than **June 17, 2021**. Plaintiff must file proof of service on ECF not later than **June 24, 2021**. Defendant's time to serve opposition papers on Plaintiff and to file said opposition papers on ECF is extended to **July 8, 2021**. Plaintiff's time to serve and file reply papers is extended to **July 13, 2021**. To the extent Defendant responds in opposition, Defendant must include a mailing address and email to which Plaintiff can serve any reply papers. The June 18, 2021 show-cause hearing is adjourned to **July 16, 2021, at 10:30 a.m.** The parties should dial-in to the show-cause hearing using (888) 363-4749; Conference Code: 3121171; Security Code: 2044.

SO ORDERED.


6/10/2021

HON. VALERIE CAPRONI
UNITED STATES DISTRICT JUDGE

Tracking Number: 70151520000223998075

Remove X

Status

Rescheduled to Next Delivery Day

May 22, 2021 at 8:56 am
PORTLAND, OR 97201

Get Updates

Your item was returned to the Post Office for address verification on May 22, 2021 at 8:56 am in PORTLAND, OR 97201 because of an incomplete address. Your item will go out for delivery on the next business day if the address can be verified.

Alert

Text & Email Updates

Tracking History

May 22, 2021, 8:56 am
Rescheduled to Next Delivery Day
PORTLAND, OR 97201
Your item was returned to the Post Office for address verification on May 22, 2021 at 8:56 am in PORTLAND, OR 97201 because of an incomplete address. Your item will go out for delivery on the next business day if the address can be verified.

May 22, 2021, 8:11 am
Out for Delivery
PORTLAND, OR 97201

May 22, 2021, 6:33 am
Arrived at Post Office
PORTLAND, OR 97210

May 22, 2021, 2:37 am
Arrived at USPS Destination Facility
PORTLAND, OR 97215

May 21, 2021
In Transit to Next Facility

May 20, 2021, 9:16 pm
Arrived at USPS Regional Origin Facility
PHILADELPHIA PA NETWORK DISTRIBUTION CENTER

May 20, 2021, 4:35 pm
Departed Post Office
DOYLESTOWN, PA 18901

May 20, 2021, 10:09 am
USPS in possession of item
DOYLESTOWN, PA 18901